

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested. Claims 1-8, 10-21, 23-26 and 28 are pending, Claims 9, 22, and 27 having been canceled without prejudice or disclaimer, and Claims 1-8, 10-21, 23-26 and 28 having been amended by way of the present amendment. The features of Claims 9 and 22 have been incorporated into amended Claim 1, and the features of Claim 27 have been incorporated into independent Claim 23. Therefore, no new matter is added.

In the outstanding Office Action, Claims 1-21 and 28 were rejected under 35 U.S.C. § 101; the drawings were objected to; Claims 1-2, 4-8, 10-19 and 21 were rejected as being anticipated by Lindholm et al. (U.S. Patent Publication No. 2004/0019801, hereinafter “Lindholm”); Claim 3 was rejected as being unpatentable over Lindholm in view of Yamada et al. (U.S. Patent No. 6,144,743, hereinafter Yamada); and Claims 9, 20, 26 and 27 were rejected as being unpatentable over Lindholm in view of Treffers et al. (U.S. Patent Publication No. 2002/0023219, hereinafter “Treffers”).

In reply, the subject matter of Claim 22, namely that the recording and processing medium pertains to a consumer electronic device or personal computer, has been incorporated into amended Claim 1. Since Claim 22 is not rejected on 35 U.S.C. § 101 grounds and the subject matter of Claim 22 has been incorporated into amended Claim 1, it is respectfully submitted that Claims 1-21, as amended, comply with 35 U.S.C. § 101. Claim 28 has been amended to require that the software product reside and run on a data recording and processing means, consistent with 35 U.S.C. § 101. In view of the present amendment, it is respectfully submitted that each of the pending claims complies with 35 U.S.C. § 101.

Separate replacement sheets have been submitted for the drawings, consistent with the request of paragraph 3 of the outstanding Office Action. No new matter is added since the labels added to these replacement sheets, is language from the present specification.

The subject matter of Claim 9 has been incorporated into Claim 1. As such, the relevant rejection is the combination of Lindholm in view of Treffers, as stated in paragraph 8 of the outstanding Office Action. In particular, amended Claim 1 includes copy protected digital data that includes a passive part, an active part and a hidden part. The active part is adapted to automatically amend itself to build an amended active part each time at least of decryption and encryption of the passive part is performed. One aspect of Claim 1 is that upon performing either decryption or encryption (which are different than a copy or play operation according to Treffers) of the passive part, the active part automatically amends itself to build an amended active part.

This feature finds support in the present specification, for example at page 13, line 26, continuing to page 14, line 8. Here it is described that in the case of installing copy protected digital data from a first volume onto a second volume, a new hidden part is generated by the respective operating system and allocated to the active content and/or active part and/or passive part stored on the second volume. In line with the rules included in the active part stored on the first volume and the corresponding information included in the hidden part stored in the first volume, the rules and internal information in the active part are automatically amended to correspond to the new hidden part under control of the active part stored in the first volume. In this respect, if the first volume is a recordable volume, then during or after installation of the copy protected digital data, the active content and/or active part and/or passive part automatically may be amended under control of the active part stored on the first volume, which necessarily results in a corresponding amendment of the respective hidden part stored on the first volume under control of the respective operating system. Alternatively, the active part might be adapted to actively amend the hidden part.

An advantage with this approach is that it guarantees that after each installation procedure copy protected digital data can be allowed or denied according to predetermined rules stored in the active part. (Page 14, lines 6-8.)

Applicants respectfully traverse the rejection of Claim 9 (now Claim 1).

The outstanding Office Action recognizes at page 16 thereof, that Lindholm does not expressly teach “wherein the active is adapted to automatically amend itself to build an amended active part each time, decryption or encryption of the passive part is performed”. Applicants agree that the feature is absent in Lindholm.

Applicants respectfully traverse the assertion in the Office Action that Treffers cures this deficiency. At page 17 of the Office Action, the Office asserts that at paragraph [0041] lines, 1-4 and paragraph [0046], lines 15-30, Treffers teaches updating the encryption key upon each copy or play of the DRM protected content. Instead, at paragraph [0041], lines 1-4, Treffers describes “the key-locker table KLT is re-written each time its content is changed, e.g., when the usage right is consumed. Then a new random key-locker key KLK is used each time the key-locker table KLT is re-written in”. This combined with the description at Treffers, page 46, lines 15-30, describe that with every change of a purchased usage right due to an active operation such a copier play, a specially appointed device such as the drive controller supplies a control signal to another device, the key-locker update and encryption unit 22, upon receiving the control signal proceeds to:

update the key-locker table KLT

generate a new randomly selected key-locker key KLK, and

encrypt the key-locker table KLT using the new key-locker key KLK.

This language in Treffers contrasts with that in amended Claim 1 that requires upon performing either one of decryption and encryption of the passive part, the active part automatically amends itself to build an amended active part. On the other hand, in Treffers,

with the clearly sequenced operation of key-locker update in encryption unit 22, upon receiving the control signal proceeds to execute three distinct steps:

- update the KLT,
- generate a new randomly selected KLK, and
- encrypt the KLT using the new KLK.

This is clearly distinct from the claimed “automatically amending” aspect for amended Claim 1.

In recognition that Lindholm does not include the features of Claim 9, and that Treffers does not disclose this feature as discussed above, it is respectfully submitted that any combination of Claims 1 and 9 patentably defines over Lindholm in view of Treffers. Because 2-8 and 10-21 depend from amended Claim 1, it is respectfully submitted that these dependent claims also patentably define over Lindholm in view Treffers.

Similar features from Claim 9 are found in original Claim 27, and Claim 27 has now been incorporated into independent Claim 23. As discussed above, in the context of Claims 9 and 1, it is respectfully submitted that the subject matter of Claim 27 which is now included in Claim 23, includes features that are absent in either Lindholm or Treffers. Moreover, it is respectfully submitted that neither Lindholm nor Treffers discloses the feature of original Claim 27, now included in Claim 23, namely “automatically amending the active part of the active content”.

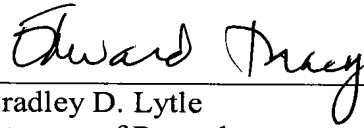
Consequently, as neither Lindholm nor Treffers describe this feature included in Claim 23, it is respectfully submitted that Claims 23-26, as amended patentably define over Lindholm in view of Treffers.

Claim 28 now includes the features of amended Claim 23 and therefore it is respectfully submitted that Claim 28 also patentably defines over Lindholm in view of Treffers for at least the reasons discussed above with regard to amended Claim 23.

Consequently, in view of the present amendment and in light of the foregoing comments, it is respectfully submitted that the invention defined by Claims 1-8, 10-21, 23-26 and 28, define patentable subject matter, and patentably define over the asserted prior art. The present application is therefore believed to be in condition for formal allowance and an early and favorable reconsideration of this application is therefore requested.

Respectfully submitted,

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